

## COUNCIL ASSESSMENT REPORT

Panel Reference	2019ES001
DA Number	291/2018(1)
LGA	Griffith City Council
Proposed Development	Electricity Generating Works – Construction of a 15MW Solar Farm
Street Address	15 Bob Irvin Road (note: new Rural Number for new access point)
Applicant/Owner	Jonathan Kennedy - IT Power Australia (applicant) Mrs Jodie Emery (Landowner)
Date of DA lodgement	19 December 2018
Number of Submissions	Two (2) from public plus four (4) from NSW agencies/infrastructure
Recommendation	Approval subject to conditions of consent
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	<b>5 Private infrastructure and community facilities over \$5 million</b> 'Development that has a capital investment value of more than \$5 million for any of the following purposes: (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,...'
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>• SEPP (State and Regional Development) 2011</li> <li>• SEPP (Infrastructure) 2007</li> <li>• SEPP (Rural Lands) 2008</li> <li>• SEPP (Primary Production and Rural Development) 2019</li> <li>• Griffith Local Environmental Plan 2014</li> <li>• Development Control Plan 1 Non-urban Development</li> <li>• Development Control Plan 25 Public Notification of Development Applications</li> <li>• Environmental Planning and Assessment Regulations 92, 93, 94 &amp; 94A</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>• Development Assessment Report</li> <li>• Draft Conditional of Consent</li> <li>• Public Submission 1 – Noel Hicks</li> <li>• Public Submission 2 - Ray and Patti Gullifer</li> <li>• Agency 1 – Transgrid (electricity)</li> <li>• Agency 2 – APA Protection (Gas)</li> <li>• Agency 3 – NSW Roads and Maritime Services (including Council Engineering assessment report)</li> <li>• Agency 4 – NSW Department of Primary Industries (Agriculture)</li> <li>• Amended plans (18 January 2019)</li> </ul>
Report prepared by	Joanne Tarbit, Development Assessment Planner
Report date	31 July 2019

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

**Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not Applicable**

**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

**Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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**Conditions**

Have draft conditions been provided to the applicant for comment?

**Yes – Sent on**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

**31 July 2019**



## Development Assessment Report

### PART A: GENERAL ADMINISTRATION

<b>JRPP No:</b>	2019WES001
<b>DA No:</b>	291/2018(1)
<b>Property Information:</b>	Lot 2 DP 1252779 (Previously Lots 140-141 DP 751709) RN 15 Bob Irvin Road YOOGALI
<b>Proposed Development:</b>	Electricity Generation works - construction of a 15 MW Solar Farm
<b>Type of Development:</b>	Local
<b>Lodgement Date:</b>	19 December 2018
<b>Statutory Timeframe:</b>	40
<b>Value of Development:</b>	\$29,000,000.00
<b>Applicant's Details:</b>	IT Power Australia Pty Ltd Level 1 19 Moore Street TURNER ACT 2612
<b>Land Owner's Details:</b>	Mrs J L Emery PO Box 41 BEELBANGERA NSW 2680
<b>Report Author/s:</b>	Mrs J V Tarbit Development Planner

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## PART B: EXECUTIVE SUMMARY

- The application has been referred to the Western Regional Planning Panel on the basis of clauses 5(a) of schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, as it is development with a capital investment of more than \$5 million for the purpose of electricity generating works. (Note the value of works is \$29 million and falls below the capital value of \$30 million therefore not being captured by Schedule 1, state significant development) (Extracts below).
- Two (2) submissions objecting to the development have been received in relation to the proposed development during the public notification period.
- The proposed development complies with planning controls, however Council should consider policy adoption in regards to the use of high value irrigated lands being excluded from future development for non-agricultural land uses such as solar farms in the future.
- It is recommended that this application be approved based on the details contained in the report.

Extracts:

### **State Environmental Planning Policy (State and Regional Development) 2011 Schedule 1 State significant development—general**

#### **20 Electricity generating works and heat or co-generation**

Development for the purpose of electricity generating works or heat or their co-generation (using any energy source, including gas, coal, biofuel, distillate, waste, hydro, wave, solar or wind power) that:

- (a) has a capital investment value of more than \$30 million, or
- (b) has a capital investment value of more than \$10 million and is located in an environmentally sensitive area of State significance.

### **State Environmental Planning Policy (State and Regional Development) 2011 Schedule 7 Regionally significant development**

#### **5 Private infrastructure and community facilities over \$5 million**

Development that has a capital investment value of more than \$5 million for any of the following purposes:

- (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,
- (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.

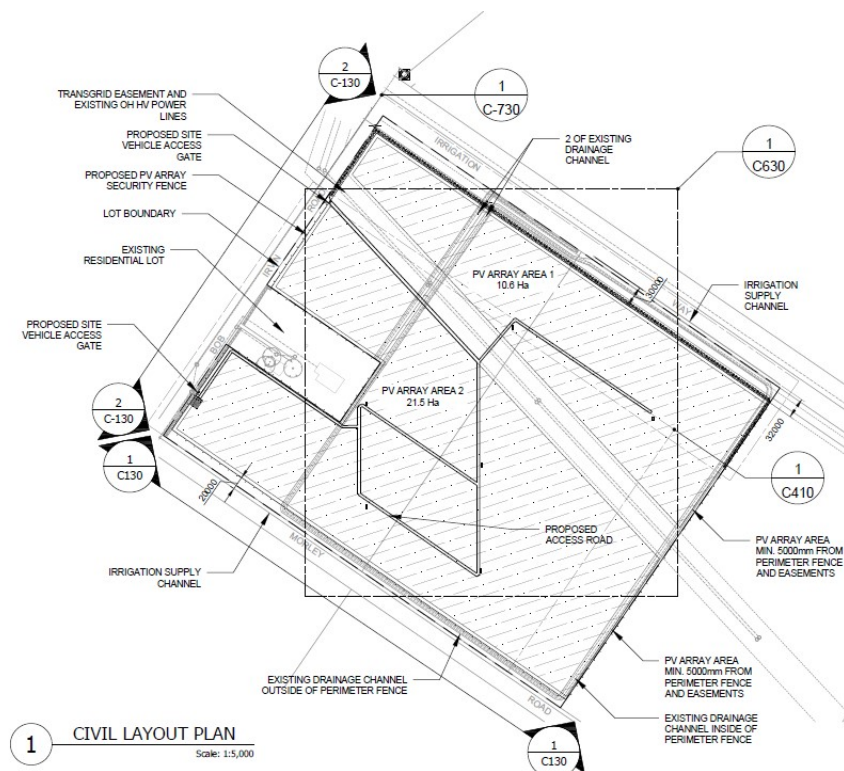
## PART C: PROPOSAL

The proposed 'electricity generating development' (solar photovoltaic farm) is to be located on RN 15 Bob Irvin Road in Yoogali which is a 41 hectare site that is currently used for agriculture. The applicant has contractual leasing arrangements to occupy the site and construct a solar farm with a DC array capacity of 18.8 MWp and an AC output of 15 MW.

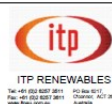
There are proposed to be 51,408 solar modules installed in 612 rows, each row being approximately 42.5 metres long and 4 metres wide and oriented north to south. There is approximately 7 metres spacing between each row.

Each row of PV modules will rotate to track the sun across the sky from east to west each day. The hub height of each tracker is 2.9 metres with the peak of the modules reaching an approximate height of 3.9 metres when the array is fully tilted to 60 degrees from horizontal.

Solar PV panel arrays are to be contained in two areas either side of the electricity easement. Arrays are to be setback a minimum 5 metres from perimeter security fences and from the electricity easement within the site.



No.	Stage	Date
1		
2		
3		
4		
5		
6		



ITP RENEWABLES

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PO Box 9911, Sydney NSW 1585 Australia

DEVELOPMENT APPLICATION			
Drawn by	WJ	Client	VIVO POWER
Checked by	JK	Project	YOOGALI SOLAR FARM
Approved by	---	Project	101A IRRIGATION WAY
Date by	28/11/18	Project	YOOGALI
DO NOT SCALE		Title	LAYOUT PLAN
This drawing shall not be used for any other purpose without the written consent of ITP Renewables.		Original Size	A3
		Drawing No.	DEV-01-C-120
		Rev.	02

Security fencing to Irrigation Way is to be set back 20 metres from the site boundary to provide more than a 20 metre buffer between the array closest to that boundary and the irrigation channel that is located in the road reserve and runs parallel to the boundary.

Six 2.5 MW inverter stations will be installed at the solar farm. These inverters are to be located within the arrays and are each mounted on a 6 metre long skid. Each of these inverter stations incorporate high and medium voltage switchgear and transformers. Each will connect by way of cables running underground to connect to the 33 kV power lines running along Bob Irvin Road on the western edge of the block to inject power to the electricity grid.

A Battery Energy Storage System (BESS) is proposed. This is to be located at the south-western corner of the site and will have 10 MWh of energy capacity and the ability to provide 5 MW of power to the network.

The BESS can store excess solar energy produced during the day then export to the network during the evening peak when the solar system isn't producing and demand on the network is high, and provide network stability by balancing out short term fluctuations in energy demand (from customers) and supply (i.e. solar output dropping due to clouds passing overhead).

Temporary car parking for up to 40 small vehicles will be needed to cater to the 50 construction workers at the rate of 0.8 spaces per worker. The area immediately adjacent the farm sheds and the farm sheds themselves are proposed to be used for the parking of staff vehicles, machinery and materials during the construction phase.

The mounting system for the PV panels is constructed on piles that are driven approximately 1.5m in to the ground using a vibrating pile driver and fixed with concrete.

During construction there is expected to be 50 personnel on site working from 7 am – 4 pm Monday to Friday. The construction is expected to take approximately 3 months. Should it be necessary to carry out work outside these hours then activities would be limited to those generating low noise emissions. Once operational the site will be unmanned. Maintenance is expected to be carried out quarterly by a crew of 2 to 3 people.

Landscaping along the northern boundary, the western boundary as far as the access driveway and along the eastern boundary to the same extent is proposed to provide a visual screen to the panel arrays for motorist travelling along Irrigation Way and to protect the integrity of the irrigation channels.

In addition, land that is disturbed during construction of the solar farm and not to be used for access or other maintenance purposes will be sown with native grass seed such as Wallaby Grass or Spear Grass which both grow to a maximum height of 400mm.

The solar farm is to be enclosed along all boundaries within a 2 metre high security fence. The proposed fence is to be chain mesh steel topped with rows of barbed wire. To minimise visual intrusion, especially to Irrigation Way, it is proposed to use galvanised metal with a PVC coated green finish. The fence along Irrigation Way is to be placed between the shrubs and the first array of PV panels so that it is screened from passing traffic by the vegetation. It will be setback 32 metres from the boundary to Irrigation Way.



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## PART D: SITE DESCRIPTION AND LOCALITY

An inspection of the site and the locality was undertaken on 20 February 2019.

The site is located on the southern side of Irrigation Way and the eastern side of Bob Irvin Road approximately 20m from the intersection. The land has an area of 41ha with a frontage to Bob Irvin Road of 590m and has a depth of approximately 730m and currently contains existing sheds, and trees in the residential area (dwelling has been recently been demolished), with the remainder of the farm used for irrigated agriculture. The site can be accessed from Bob Irvin Road via a gravel driveway.

The site is generally flat with a slight fall to the south west. A supply channel is located on Irrigation Way adjoining the site and a drainage channel is located on Morley Road on the south side of the site.

The locality comprises broad acre irrigated farms (eg rice, cotton, chickpeas), some of which also have a dwelling house and associated farming sheds.

Major infrastructure on the site includes an electricity line and a high pressure gas main as shown on the aerial photo below. An electricity substation and existing solar farm is located north of the subject site on Hamilton Road.



## PART E: BACKGROUND INFORMATION AND HISTORY OF THE SITE

### Pre-Lodgement

Prior to the application being lodged with Griffith City Council, the proponent for the development had pre-lodgement discussions with Council Officers to determine permissibility and the detail needed to be submitted to Council.

## Development Assessment Panel

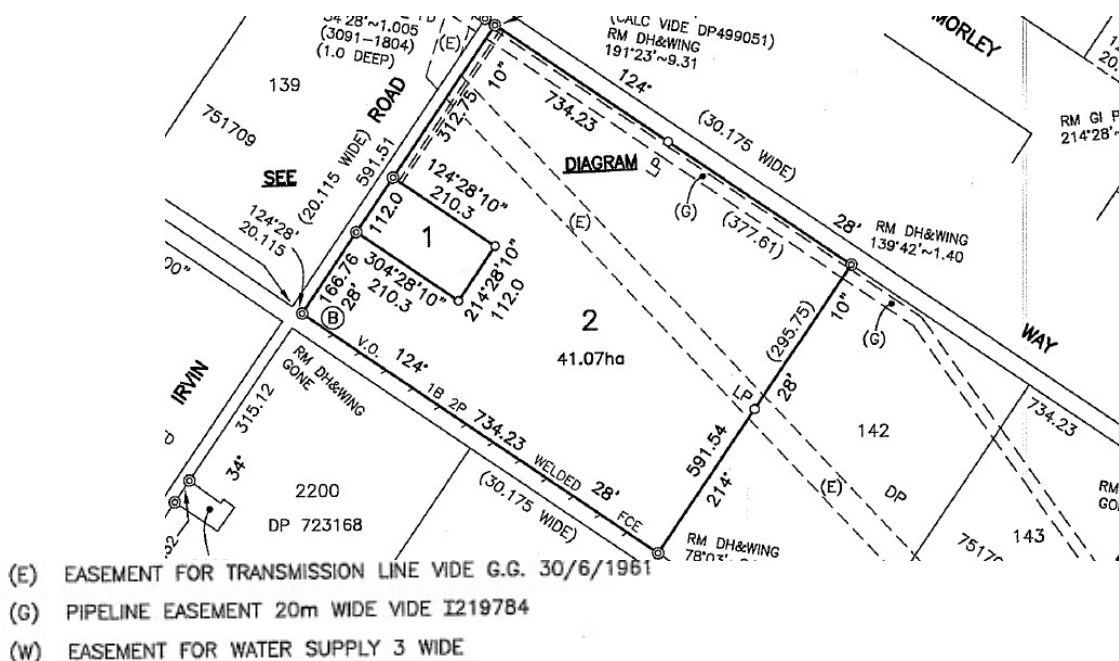
The matter was considered at the Development Assessment Panel meeting on 3 January 2019 and the following matters were raised during the preliminary assessment of the application which are potential issues or where further information from the applicant is required:

- Permissibility viz. Part 3 Div 4 of SEPP (Infrastructure)
- Sch 1 Item 20 & Sch 7 SEPP (State & Regional Development) trigger is CIV of \$29,000,000
- Refer to SSD approvals for nearby solar farms
- Check s7.12 Contribution Plan for exemptions otherwise 1% or \$290,000
- Integrated development because of works within Irrigation Way - concurrence required from RMS
- Cost Analysis required as per s94A (s.7.12) contributions plan and threshold for SEPP

## Development History of Site

The development history of the subject site has been established following research of Council's electronic data management system and research of Council's physical archives. Based on the information available the following can be established:

- DA 154/2018(1) for Boundary Adjustment to create lots 1 and 2 DP 1252779. This subdivision certificate was issued after the development application for the solar farm was lodged, hence the change in site lot numbers. The solar farm lot now being 41.0ha and a smaller 2.31ha residential/ancillary shed lot. An extract of final subdivision plan including easements is shown below.
- DA 69/2017 for the demolition of a dwelling – Demolition has been carried out.
- CD 579/2017 for a dwelling house – has been surrendered.
- BA 137/74 for home improvement – house was demolished in 2018.





## PART F: STATUTORY REFERRALS

The following statutory referrals were considered as part of the assessment of the application:

AGENCY	LEGISLATION	APPLIES
DPI	Fisheries Management Act 1994 Mines Subsidence Compensation Act 1961 Mining Act 1992 Petroleum (Onshore) Act 1991	No
OEH	National Parks, & Wildlife Act 1974 Protection of the Environment Operations Act 1997 Water Management Act 2000	No
NSW Heritage	Heritage Act 1977	No
RMS	Roads Act 1993	Yes
RFS	Rural Fires Act 1997	No

Submissions received from the RMS in response to the abovementioned referrals are addressed in Part G: Matters for Consideration, s4.15(1)(d) – any Submissions Made in Accordance with the Act or Regulation.

## PART G: SECTION 4.15 EVALUATION

In determining a development application, a consent authority is to take into consideration Section 4.15 of the Environmental Planning and Assessment Act 1979. The following matters as are of relevance to the development the subject of the development application.

### SECTION 4.15(1)(a)(i) any environmental planning instrument.

#### *Griffith Local Environmental Plan 2014*

##### (a) Permissibility

The proposed development is for Electricity Generation works - construction of a 15 MW Solar Farm and this falls under the definition of **electricity generating works** in the Dictionary of Griffith Local Environmental Plan 2014, which is defined as:

- means a building or place used for the purpose of making or generating electricity.

The subject land is zoned RU1 Primary Production and under Part 2 Land Use Table of Griffith Local Environmental Plan 2014 a **electricity generating works** is development that is **not** permitted by the zone table.

The development however is permissible by virtue of State Environmental Planning Policy (Infrastructure) 2007 Division 4 Electricity generating works or solar energy systems. Under the SEPP Clause 34 allows:

- (1) Development for the purpose of electricity generating works may be carried out by any person with consent on the following land:
  - (b) in any other case—any land in a prescribed rural, industrial or special use zone.

**prescribed rural zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU3 Forestry,
- (d) Zone RU4 Primary Production Small Lots.

Given the SEPP overrides GLEP2014, on the above basis the proposed development is considered permissible at the subject site.

(b) *Aims and Objectives*

The proposed development has been considered with regard to the aims of Griffith Local Environmental Plan 2014 as set down in Part 1, clause 1.2(2) which states:

- (a) *to prevent unnecessary urban sprawl by promoting business, industrial, rural and residential uses within and adjacent to existing precincts related to those uses,*
- (b) *to minimise land use conflict in general by creating areas of transition between different and potentially conflicting land uses,*
- (c) *to provide a variety of development options to meet the needs of the community with regard to housing, employment and services,*
- (d) *to manage and protect areas of environmental significance,*
- (e) *to recognise the historical development of the area and to preserve heritage items associated with it.*

In regard to the aims, the proposed development is located outside of urban zones and within the rural RU1 zone as permitted by the SEPP (Infrastructure). The site is located near the electricity substation and is considered unlikely to cause land use conflict.

The objectives for Zone RU1 Primary Production set down in the Land Use Table are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To permit a range of activities that support the agricultural industries being conducted on the land and limit development that may reduce the agricultural production potential of the land.*
- *To permit tourist facilities that promote an appreciation of the rural environment and associated agricultural and horticultural activities, while ensuring the continued economic viability of the land.*

The proposed development is consistent with these objectives in that the proposed electricity generating solar farm will be located adjacent to the existing electricity substation, allowing for electricity production to support the city of Griffith and the surrounding primary industries.

(c) *Principal Development Standards*

Section 4 of the Environmental Planning and Assessment Act 1979 defines a *development standard* as being a provision of an environmental planning instrument in relation to the carrying out of a development, being provisions by or under which requirements are specified or standards are fixed in respect to any aspect of the development.

Part 4 of Griffith Local Environmental Plan 2014 identifies the principal development standards that apply. In this instance there are no development standards applicable to the proposed development.

(d) *Miscellaneous Provisions*

Part 5 of Griffith Local Environmental Plan addresses numerous miscellaneous provisions including:

(i) Identification of the relevant acquisition authority

The proposed development does not involve the acquisition of land so therefore the provisions of Clause 5.1 are irrelevant to the proposed development.

(ii) Classification and reclassification of public land

The proposed development does not involve land that is classified as public land or requires the reclassification of public land and therefore Clause 5.2 does not apply.

(iii) Development near zone boundaries

Clause 5.3(2) only applies to land that is within 20 metres of any zone boundary. In this instance proposed development is not near any zone boundary and therefore the provisions of Clause 5.3 does not apply.

(iv) Controls for miscellaneous permissible land uses.

Clause 5.4 applies to a variety of miscellaneous uses which are not relevant to the subject development application.

(v) Conversion of fire alarms.

Clause 5.8 applies to fire alarm systems that can be monitored by Fire and Rescue NSW or by a private service provider and identifies what development requires consent and what may be addressed as complying development. In this instance the provisions of Clause 5.8 does not apply.

(vii) Heritage conservation

Clause 5.10 of Griffith Local Environmental Plan 2014 sets down objectives in respect to the conservation of environmental heritage within the Griffith local government area. Specifically it applies to the protection of heritage items and heritage conservation areas; development affecting places or sites of known or potential Aboriginal heritage significance; development affecting known or potential archaeological sites of relics of non-Aboriginal heritage significance; development in the vicinity of a heritage item; provision of conservation incentives; and development in heritage conservation areas.

An AHIMS search was conducted on 3 January 2019 with a buffer of 50m and no aboriginal sites or places were recorded near the subject site.

The subject site is not located within a heritage conservation area, nor does it contain nor within the vicinity of a heritage item listed in Schedule 5 of Griffith LEP 2014.

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(viii) Bushfire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without development consent.

(ix) Infrastructure development and use of existing buildings by the Crown

The proposal does not involve infrastructure works involving a public authority nor does it involve the use of an existing building by the Crown.

(x) Eco-Tourist Facilities

The proposal does not relate to an eco-tourist facility.

(e) *Additional Local Provisions*

(i) Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposed development involves minor earthworks which are considered ancillary to the construction of the solar farm. These works are unlikely to have any detrimental impact on environmental functions and processes, nor effect neighbouring sites or cultural or heritage features of the surrounding land. If approved, a construction certificate will be required prior to works proceeding.

(ii) Flood Planning

The objectives of Griffith Local Environmental Plan 2014 in respect to flood planning are as follows:

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) *to avoid significant adverse impacts on flood behaviour and the environment.*

As the subject site is mapped as being above the flood planning level, the provisions of clause 7.2 do not apply.

(iii) Terrestrial Biodiversity, Groundwater Vulnerability, Riparian Land, Watercourse & Wetlands & Salinity

The subject site has not been identified on any of the relevant maps as having environmental significance in terms of terrestrial biodiversity, groundwater vulnerability, riparian land, water courses or wetlands or salinity.

As such the provisions of clauses 7.3, 7.4, 7.5, 7.6 to 7.7 inclusive are not relevant to the site.

Morley Road adjoining the southern boundary of the site however has been identified on the Terrestrial Biodiversity Map. In order to meet the objectives of Clause 7.3 the following matters have been taken into consideration:

- (a) *whether the development is likely to have:*
  - (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
  - (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
  - (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
  - (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*
- (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Furthermore Clause 7.3(4) states that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The proposed development has been designed with road access via Bob Irvin Road. No works will be carried out on Morley Road, hence in this case the biodiversity will be retained in its current state. In addition, a vegetation buffer will be planted around the site which will improve connectivity in the locality. The species indicated for planting in the buffer zones are native to the Griffith Local Government Area however, Weeping Myall Woodland species would be more appropriate for the locality, given these are growing in the local roadsides and adjoining the Mirrool Creek to the east. Amended species for planting will be conditioned.

(iv) **Airspace Operations**

The subject site is not within any aircraft obstacle limitation surface area and as such the provisions of Clause 7.8 do not apply.

Council also consulted with staff at CASA (verbally) and confirmed that given the subject site and solar panels are located outside of the OSL, no referral was required.

(v) **Development in areas subject to aircraft noise**

The objectives of this clause are to prevent certain noise sensitive developments from being located near the Griffith Airport and its flight paths, and to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings.



The proposed development is not located on land near the Griffith Airport and is not on land in an ANEF contour of 20 or greater.

(vi) Essential services

Clause 7.10 states that development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

Council water (a) and sewer (c) facilities are not available to the subject site.

Electricity (b) is already available for use at the subject site.

Stormwater (d) is to be directed to existing channel on Morley Road around lot 1. The site slopes from Irrigation way to Morley Road

Vehicle access (e) is to be provided via Bob Irvin Road.

Further detail and draft conditions of consent to address these matters is provided in councils engineering referral dated 13 February 2019.

(vi) Location of sex services premises

The objective of clause 7.11 is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children. The proposed development does not relate to a sex service industry.

### State Environmental Planning Policies

The following is a list of State Environmental Planning Policies that apply to the Griffith City Council area. The table also identifies the applicability of the policy with respect to the subject development proposal. Where a policy has been identified as being applicable, further assessment is provided.

SEPP No.	SEPP TITLE	APPLIES
SEPP No. 21	Caravan Parks	No
SEPP No. 36	Manufactured Home Estates	No
SEPP No. 50	Canal Estates	No
SEPP No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	No
SEPP No. 55	Remediation of Land	No
SEPP No. 62	Sustainable Aquaculture	No
SEPP No. 64	Advertising and Signage	No
SEPP No. 65	Design Quality of Residential Flat Development	No
SEPP	Housing for Seniors of People with a Disability 2004	No
SEPP	Building Sustainability Index (BASIX) 2004	No

SEPP	Mining, Petroleum Production and Extractive Industries 2007	No
SEPP	Temporary Structures 2007	No
SEPP	Miscellaneous Consent Provisions 2007	No
<b>SEPP</b>	<b>Infrastructure 2007</b>	<b>Yes</b>
<b>SEPP</b>	<b>Primary Production and Rural Development 2019</b>	<b>Yes</b>
SEPP	Exempt and Complying Development Code 2008	No
SEPP	Affordable Rental Housing 2009	No
<b>SEPP</b>	<b>State and Regional Development 2011</b>	<b>Yes</b>
SEPP	Education Establishments & Childcare Facilities 2017	No
SEPP	Vegetation in Non-Rural Areas 2017	No

**SEPP (State and Regional Development) 2011** has previously been dealt with in this report in terms of permissibility re Clause 34(1)(b).

### SEPP (Infrastructure) 2007

The proposed development is considered to be permissible with consent given Clause 34 which states:

#### **34 Development permitted with consent**

- (1) *Development for the purpose of electricity generating works may be carried out by any person with consent on the following land:*  
 (b) *in any other case—any land in a prescribed rural, industrial or special use zone.*

### SEPP (Primary Production and Rural Development) 2019

#### **9 Savings provision relating to development applications**

*'If a development application has been made before the commencement of this Policy in relation to land to which this Policy applies and the application has not been finally determined before that commencement, the application must be determined as if this Policy had not commenced.'*

As such, this policy does not apply to the subject application given adoption date of 28 February 2019, however the repealed SEPP (Rural Lands) 2008 remains applicable due to this savings provision.

### State Environmental Planning Policy (Rural Lands) 2008

Relevant Clauses	Assessment response
<b>2 Aims of Policy</b> <i>The aims of this Policy are as follows:</i>  (a) <i>to facilitate the orderly and economic use and development of rural lands for rural and related purposes,</i>	(a) The vast majority of the Griffith LGA is located within the Murrumbidgee Irrigation Area (MIA). Whilst the MIA is not mapped under this SEPP to date, this land is considered to be of importance to food and fibre production within NSW. The subject site has access to irrigation, and with most recent use including rice and cereal cropping. Land in the locality of the site is similarly used for broad scale irrigated cropping as well as horticulture including citrus and grapes.  Draft mapping previously available (February 2019) on the NSW Department of Primary Industries website indicated all

<p>(b) <i>to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,</i></p> <p>(c) <i>to implement measures designed to reduce land use conflicts,</i></p>	<p>Rural (RU) Zoned of the MIA as Important Agriculture Lands. Whilst this draft is no longer available to view and has not yet been adopted, it is understood that this mapping will form the basis of the mapping to be adopted by this SEPP.</p> <p>Land to the north and north east of the site (north of the Irrigation Way) have been approved for solar farm development via the State Significant Development pathway. An electricity substation is located directly north of the subject site (Also north of the Irrigation Way).</p> <p>Whilst the subject site is of importance to continuation of cropping in the MIA, the subject site is relatively small, being 41ha and smaller than the two similar solar farm developments previously approved in the locality under state legislation.</p> <p>Council is mindful of the importance of preserving important agriculture lands within the MIA for their intended irrigated primary production use. However, given the relatively small scale of the proposed solar farm and the timing of the subject application (prior to the SEPP mapping being adopted), it is considered that the proposed development is consistent with the economic development of the land.</p> <p>Further to this the applicant has submitted an undertaking to trial a number of agricultural uses on the subject site including grazing of saltbush and native pastures, to provide a dual economic return from the subject site.</p> <p>(b) Relevant rural planning principles are identified and commented on under Clause 7 over page.</p> <p>(c) The use of land in the locality is typically horticulture and irrigated agriculture. The proposed new use does not cause nor is sensitive to air pollution including noise or odour. As such, the proposed new use as a solar farm is considered unlikely to cause land use conflict in relation to land use.</p> <p>Further to this native vegetation will be planted in the buffer zones surrounding the subject site, and the applicant has submitted an undertaking to trial the use of native saltbush and grasses for grazing by sheep between rows within the solar farm. The aim of the buffer zone is to reduce visibility of the subject site from Irrigation Way and nearby residential receptors.</p>
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<p>(d) <i>to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,</i></p> <p>(e) <i>to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.</i></p>	<p>(d) The subject lands are not identified as state significant agricultural lands, however is likely to be mapped as Important Agriculture Land.</p> <p>(e) Not Applicable</p>
<p><b>7 Rural Planning Principles</b>  <i>The Rural Planning Principles are as follows:</i></p> <p>(a) <i>the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,</i></p> <p>(b) <i>recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,</i></p>	<p>(a) The subject site is currently utilised as productive agricultural land. The use of the site for a solar farm are considered to be argued to be a sustainable economic activity.</p> <p>Sustainability is inherent in the production of electricity by solar panels, thereby suggesting solar farms are sustainable by nature.</p> <p>Further to this, the applicant will trial the use of the land between the solar panels for grazing by stock. If successful, this could improve the sustainability of the proposed development providing a dual economic outcome, and continuing agricultural use of the site in the short to medium term.</p> <p>In the long term, the solar farm is estimated to hold a 20-30 year lifespan, with potential to decommission the site at the end of this period, or renew solar panels for continuing use of the site</p> <p>(b) Solar Farms are currently increasing in number throughout the state as the technology advances and 'green energy' markets trends increase. Two solar farms have previously been approved under the premise of State Significant Development within the Griffith LGA, within the locality of the proposed new solar farm. Council has taken the lead by the State Government in its approach to assessing the current Development Application given its lodgement prior to the drafting of Important Agriculture Land mapping for our region.</p> <p>However, discussion throughout the Riverina and Murray Joint Organisation (RAMJO) of councils, is increasingly questioning the blanket permissibility provided by SEPP (Infrastructure) in allowing the construction of solar farm developments on land mapped as Important Agriculture Lands. Council is therefore assessing this application under the existing legislation with the</p>

<p>(c) <i>recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,</i></p> <p>(d) <i>in planning for rural lands, to balance the social, economic and environmental interests of the community,</i></p> <p>(e) <i>the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,</i></p> <p>(f) <i>the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</i></p> <p>(g) <i>the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,</i></p> <p>(h) <i>ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local</i></p>	<p>expectation of Important Agriculture Land mapping being adopted in the near future and future applications for like development being assessed against the mapping and any associated policy or guidelines.</p> <p>(c) The existing land use as productive agriculture land provided an ongoing positive economic outcome for the community, through the purchase and sale of products in the local community related to the growing of primary products, typically rice or other cereals.</p> <p>The proposed new use as a solar farm will provide a short term economic growth in the community through the construction phase, with the ongoing maintenance phase providing jobs for 2-3 maintenance staff.</p> <p>(d) The proposed development will provide additional environmentally sustainable electricity supply to the Griffith Local Government Area and the state electricity network in general. Buffer zones around the site will provide a positive environmental outcome given they will be planted with local native vegetation from the Weeping Myall Vegetation Community.</p> <p>(e) The proposed use of the land will not require the clearing of any native vegetation. The applicant has committed to planting a screening buffer zone around the development site as well as trailing native saltbush and grass pasture for sheep grazing under the solar panels. Should this trial be both practical and economical, this use would continue in parallel with the solar farm. The proposed new use of the land utilises substantially less water, potentially only during the establishment phases of these plantings.</p> <p>(f) The proposed development offers an alternative use of the subject land, and contribution to the local economy through the maintenance of the farm.</p> <p>(g) Not applicable regarding rural housing</p> <p>(h) Whilst the first directions of the Riverina Murray Regional Plan 2036 pertain to the protection of Agricultural land and agricultural diversity, Direction 11 and 21 also relate to the promotion of diversification of energy supply through renewable energy generation and infrastructure.</p>
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<i>strategy endorsed by the Director-General.</i>	Specifically, the plan suggests Griffith and Carrathool as suitable for large-scale solar power generation and geothermal energy and the need for high quality utility infrastructure including electricity, to service agricultural and manufacturing industries and drive future economic competitiveness.
<b>13 State significant agricultural land</b>	Schedule 2 is blank with no state significant land currently gazetted.

#### SECTION 4.15(1)(a)(ii) any draft environmental planning instrument.

At the time of preparing this report there is no draft environmental planning instrument that applies to the development or to land within the Griffith local government area.

#### SECTION 4.15(1)(a)(iii) any development control plan.

The following is a list of development control plans that apply to the Griffith City Council area. The table also identifies the applicability of the policy with respect to the subject development proposal. Where a policy has been identified as being applicable, further assessment is provided.

DCP No.	DCP TITLE	APPLIES
<b>DCP No. 1</b>	<b>Non-Urban Development</b>	<b>Yes</b>
DCP No. 3	Industrial Development	No
DCP No. 5	Wyangan Avenue Residential	No
DCP No. 6B	Pioneer and South Griffith	No
DCP No. 11	Urban Subdivision	No
DCP No. 17	Siting and Development Of Public Open Space	No
DCP No. 19	Mixed Development	No
DCP No. 20	Off Street Parking Policy	No
DCP No. 21	Residential Development Policy	No
DCP No. 22	Exempt and Complying Development	No
<b>DCP No. 25</b>	<b>Public Notification of Development Applications</b>	<b>Yes</b>
DCP	Collina Growth Area	No

#### DCP 1 Non-Urban Development

The land prior to the current RU1 Primary Production zoning, therefore the provisions of DCP 1 would apply in respect to the development application to this proposal. Table 2 – General provisions for development other than subdivision of Non-Urban land & that would be applicable to this proposal.

Design Elements	Minimum Development Standards & Compliance / Comments
Bulk, Scale, Setbacks and General Amenity Issues	<p>(i) 1(a), 1(b), 1(d) (Rural Residential component only), 1(h), 1(i) (Rural Residential component only)</p> <p>• The structure is to be setback a minimum of ten (10) metres from the front boundary or setback a minimum of one hundred (100) meters from the front boundary where the lot has frontage to an “arterial road” or “proposed by-pass route”. (Refer to DCP 28 – Land Use Buffer Controls)</p> <p><b>Complies</b> - The proposed development is for a solar farm with no residential buildings which may be affected by arterial road noise. The panels are to be setback approximately 32m from the road, which is greater than the 10m required for all non-residential structures.</p>

Open Space, Additional Buffer Areas	<ul style="list-style-type: none"> <li>• A minimum buffer distance (by way of an easement) of fifty (50) metres shall apply from natural watercourses.</li> <li>• A minimum buffer distance (by way of an easement) of twenty (20) metres shall apply over drainage lines and canals.</li> <li>• A minimum buffer distance (by way of an easement) of forty (40) metres shall apply from adjoining agricultural lands (Refer to DCP 28 - Land Use Buffer Controls).</li> <li>• All buffer areas are to be planted out using tree species and shrubs that are suitable to the area.</li> </ul> <p>The above information shall be incorporated in the Management Plan to be submitted to Council. (See Table 1, Row h)</p> <p><b>Not applicable</b> to the proposed development as the buffer zones relate to the protection of residential development from agricultural spray drift and the like. As the proposed development is not for residential purposes, these buffer zones do not apply.</p> <p>A buffer zone of planted vegetation is required however to reduce glare from the site to users on the adjoining arterial (and other) road reserves, and where dwelling houses are located nearby.</p>
Landscaping	<ul style="list-style-type: none"> <li>• The required setback area in sub clause (a) to all boundaries is to be soft landscaped to a minimum of 90% of that part of the lot.</li> <li>• No more than 10% of the front yard is to be paved or sealed.</li> </ul> <p><i>Note: Soft landscaping can be trees, gardens, lawns and the like of the applicant/owners choice but does not include improvements such as driveways, parking areas, swimming pools (including coping decking and development ancillary to the pool) and ancillary dwelling structures/sheds/garages and the like.</i></p> <p><b>Complies</b>, buffer zones have been provided with the application and conditioned for glare reduction. These are to be planted to local native species. Density and width of plantings to be adequate for the intended use.</p>
Site Access	<ul style="list-style-type: none"> <li>• Where the access way connects to a sealed road, the access way and suitable tapers are to be bitumen sealed or equivalent hard surface between the property boundary and the road carriageway.</li> </ul> <p>Driveways shall be a minimum of six (6) metres wide between the edge of the road carriageway and the property boundary. Internal driveways shall be a minimum of three (3) metres wide.</p> <p><b>Complies</b> - Council engineering assessment states the following:</p>

	<p><b>Access, Traffic and Transport</b></p> <p><i>Existing Accessway(s)/Driveway(s)</i>  <i>Proposed Accessway(s)/Driveway(s)</i></p> <p>The applicant has proposed to construct two (2) additional accessways as part of the subject development, however Council will only permit one (1) additional accessway to be constructed to service the proposed Solar Farm.</p> <p>The new accessway shall be constructed as a "Rural Property Access" type treatment in accordance with the Austroads Guide to Road Design and cater for the largest sized vehicle accessing the site. The accessway is to cater for the left turn movements into and out of the property and it is required to be constructed to an all-weather standard in accordance with Council's <i>Engineering Guidelines – Subdivision and Development Standards</i> between the road carriageway and the property boundary.</p> <p>The existing dwelling (lot 1 DP 1252779) shall be accessed by the existing access way off Bob Irvin Road and a new access way constructed (also off Bob Irvin Road) to service the solar farm development (on lot 2 DP 1252779). Each access way to be upgraded as per Engineering guidelines.</p>
<p>Stormwater Management</p>	<p>Refer to DCP 23 - <i>Engineering Requirements for Development</i> for requirements.</p> <p>This DCP has been rescinded. Stormwater to be dispersed within property, and overland flow will drain to the MI drain on Morley Road. Levees have been provided around the dwelling block on Lot 2 to ensure drainage water does not cross property boundaries.</p>
<p>Fire Management (i) All structures where a fire threat has been identified on Council's 'Environmental and Ecological Bushfire Threat' map</p>	<ul style="list-style-type: none"> <li>• Adequate provision is to be made for the access of fire fighting- and emergency service vehicles.</li> <li>• An adequate supply of water is to be made available for fire fighting purposes. A minimum supply of twenty thousand (20 000) litres of water shall be provided solely for fire fighting purposes. A suitable connection is to be made available for the purpose of the Rural Fire Service. (Reference <i>Planning NSW 'Planning for Bushfire Protection', 2001, Chapter 4: Bushfire Provisions – Development Stage, Chapter 5: Construction Standards for Bushfire Protection</i>)</li> <li>• Consultation required with the NSW Rural Fire Service.</li> <li>• Developments shall also incorporate measures to promote bushfire protection through site selection, building design and materials and garden vegetation management.</li> <li>• Rural residential design is encouraged to have a single asset protection zone.</li> <li>• Consideration should be given to grouping rural residential developments into clusters that allow for the establishment of Asset Protection Zones around a group of dwellings rather than having to ensure individual protection for a large number of scattered dwellings.</li> <li>• The provision of adequate and independent static water supplies where mains water is not available shall be made.</li> </ul> <p><i>Note: Bushfire protection measures that are essential to the subdivision must occur on the site of the proposed development.</i></p> <p><b>Not applicable</b> - The land is not mapped as bushfire prone</p>
<p>(ii) General Principles: Fire access trails and firebreaks are to be sensitively sited within</p>	<ul style="list-style-type: none"> <li>• Mowing and slashing is the preferred method of construction of firebreaks. Recommendations for this include: <ul style="list-style-type: none"> <li><input type="checkbox"/> Mowing a strip up the back of the table drain will help to prevent fires.</li> <li><input type="checkbox"/> Avoiding any rare or significant plants during firebreak construction.</li> <li><input type="checkbox"/> Avoid construction of unnecessary firebreaks.</li> <li><input type="checkbox"/> Avoiding areas where there are native shrubs and trees or revegetated zones when constructing firebreaks.</li> <li><input type="checkbox"/> Minimisation of damage to native vegetation.</li> </ul> </li> </ul>

the landscape, especially in steep terrain	<p>Consultation is required with the Rural Fire Services. Planning NSW <i>Planning for Bushfire Protection</i> 2001 recommendations shall be incorporated in subdivision applications.</p> <p><b>Not applicable</b> - The land is not mapped as bushfire prone</p>
(iii) Works in association with clubs, community facilities places if assembly and recreation areas.	<p>• Consultation is required with the Rural Fire Service of NSW for construction works associated with community facilities, places of assembly and recreation areas. Note: (Planning NSW's <i>Planning for Bushfire Protection</i>, 2006 document shall be taken into consideration.)</p> <p><b>Not applicable</b> - The land is not mapped as bushfire prone</p>

### DCP 20 Off Street Parking

The DCP states that a comparative analysis is required to determine the number of car parking spaces required for electricity generating works.

Development Application 237/2016 for the Neoen Australia sSolar farm directly north of the site, did not impose conditions relating to carparking during or after the construction phase.

Similarly, Development Application 2018/32 from Federations Council (assessed by the Regional Planning Panel) for a solar farm did not impose conditions relating to carparking during or after the construction phase.

The Statement of Environmental Effects submitted with the application provides the following comments:

Primary access to the development site is via Bob Irvin Road at a point approximately 100m south-west of Irrigation Way. Peak hour traffic volume counts at the intersection of Bob Irvin Road and Irrigation Way were undertaken on 15 August 2018. Proposed traffic generation is then estimated based on 170 semi-articulated trucks accessing the site during the construction phase with up to a maximum of 6 construction vehicles accessing the site daily during peak construction periods. Turning movements into and from Bob Irvin Road were also analysed. The assessment also allows for up to 50 personnel accessing the site each day during the construction period by small motor vehicles.

The findings of the assessment are that the proposed traffic generation resulting from up to 50 staff accessing the site and a maximum of 6 heavy vehicles delivering machinery and materials on any day can be readily accommodated for at the intersection of Bob Irvin Road and Irrigation Way subject to intersection upgrades.

Given a comparative analysis is not available, and the comments provided in the Statement of Environmental Effects above, a condition will be imposed requiring a plan to satisfy the needs for up to 50 staff members during the construction phase. Further to this, Council's engineers report states the following:

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## Compliance with AS 2890

The applicant is proposing to construct a temporary parking and laydown area onsite which will accommodate a minimum of 40 car parking spaces. This carparking area will only be required during the construction phase of the development and is to be detailed on the Construction Management Plan.

Once construction has finished, and the solar farm is operational, maintenance is expected to be carried out quarterly by a crew of 2 to 3 people. Carparking will not be required onsite during the operational phase of the development as workers will be required to drive between the panels requiring maintenance and will use the internal roads for parking. There will not be any conflict of vehicles using the internal roads due to the low number of staff required onsite at any one time.

All loading and unloading of vehicles is to be conducted onsite; no loading will be permitted from Council's road reserve, and all vehicles are to enter and leave the site in a forward direction.

The conditions of consent will reflect the requirements of Australian Standard 2890.

### DCP No. 25 - Public Notification of Development Applications

The development was notified and advertised in accordance with DCP 25. A total of two (2) submissions were received.

#### SECTION 4.15(1)(a)(iiia) any planning agreement.

None applicable

#### SECTION 4.15(1)(a) (iv) the regulations.

Section 4.15(1)(a)(iv) requires Council to take into consideration the provisions of clauses 92-94 of the Environmental Planning and Assessment Regulation 2000.

Clause 92(1)(b) of the Environmental Planning & Assessment Regulation 2000 requires the consent authority to consider the provisions of Australian Standard AS 2601-1991: The demolition of Structures.

No demolition is proposed.

Clauses 93 and 94 of the Environmental Planning and Assessment Regulation 2000 require that Council take into consideration fire safety provisions.

This is not applicable to the proposed development.



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**SECTION 4.15(1)(b) the likely impacts of the development.**

In taking into consideration section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 Council must evaluate the likely impacts of the development on both the natural and built environments, and the social and economic impacts in the locality.

a) Impact on Built Environment

The subject site comprises an existing irrigated agricultural farm which is located on generally flat land suitable for flood irrigation. The proposed land use is similar to solar farm development directly adjoining to the north of the subject site.

The proposed solar farm comprises 51,408 solar modules installed in 612 rows, each row being approximately 42.5 metres long and 4 metres wide and oriented north to south. There is approximately 7 metres spacing between each row.

Each row of PV modules will rotate to track the sun across the sky from east to west each day. The hub height of each tracker is 2.9 metres with the peak of the modules reaching an approximate height of 3.9 metres when the array is fully tilted to 60 degrees from horizontal.

Visual impact of the proposed development from surrounding road reserves including the Irrigation Way will be similar to the existing solar farm. Screening is proposed in the buffer zones surrounding the solar farm. Locally Native species will be required in this zone, particularly from the threatened community 'Weeping Myall Woodland', which would have dominated the landscape prior to farming of the area.

During the assessment of the proposed development, verbal discussions were undertaken with the Civil Aviation Safety Authority (CASA), who confirmed the proposed solar panels were not of concern in relation to the proximity to Griffiths Airport and its Limitation or Operations Surface.

b) Impact on Natural Environment

The proposed development has a projected lifespan of 20 years with potential for renewal after this period via replacement of the solar panels. Alternatively the site can be reclaimed for farming, by removal of the solar panel structures and associated infrastructure.

Noise:

Whilst some noise will be generated during the construction phase, long term it will be minimal. A condition will be imposed to require any noise generated from the operation of the development must not be intrusive or offensive as defined by the Protection of the Environment Operations Act 1997.

Dust:

Dust is likely to be generated during the construction phase of the development and potentially during the life of the development. The applicant has committed to trialling the grazing of stock on native saltbush and grasses beneath the solar panels. If successful this could potentially reduce dust erosion from the site significantly. In addition the main road access to the solar farm will be upgraded to a sealed standard as per Councils Engineering Guidelines. This includes upgrading of the first 50m of Bob Irvin Road from the Irrigation Way to prevent dust for passing traffic.

An Environmental Site Management Plan will be required to address dust concerns and groundcover to reduce windblown dust and traffic-generated dust.

During the use of the site soil quality could be impacted by the use of the chemicals for cleaning of the panels.

Further to this, a condition has been imposed requiring any product used for dust mitigation or cleaning of the solar panels to be declared to Council prior to use to ensure that no soil or groundwater contamination risks are associated with that product.

Heritage:

The site has been used for irrigated agriculture and has subsequently been land formed and developed for this use. An AHIMS report was generated for the subject site indicating no known heritage significance at the subject site.

Given these considerations, a condition has been imposed on the development requiring construction to cease should any items of previously unidentified heritage items be identified at the site.

### Biodiversity:

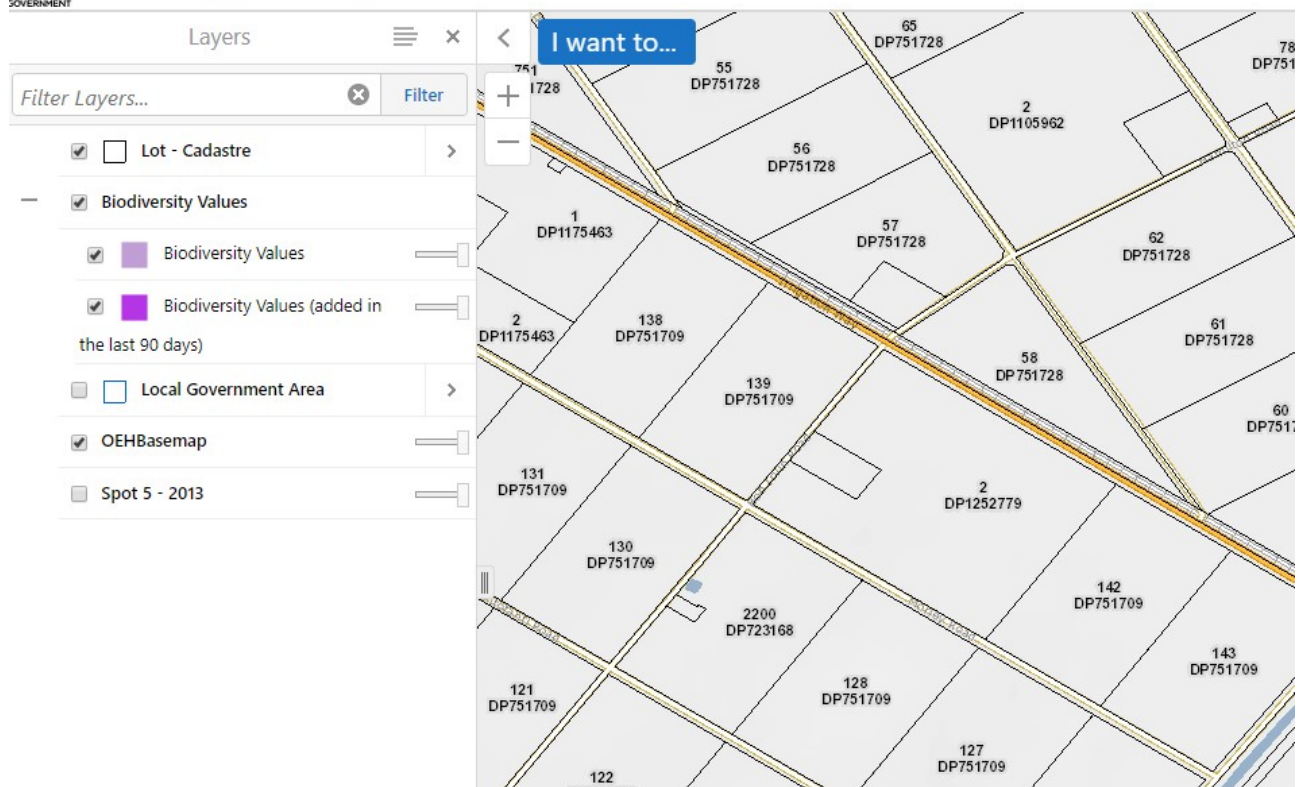
The proposed development does not require the removal of any native vegetation. Planting in the buffer zones of locally native species, specifically from the Weeping Myall Woodland community will improve habitat available in the locality, providing additional habitat for species using similar woodland habitat on the Mirrool Creek and on Mirrool Branch Canal Road.

In addition to this the applicant has committed to a trial of native saltbush and grasses for grazing of sheep under the panels. The species proposed provide excellent habitat value for small woodland birds and reptiles, further enhancing the biodiversity values of the subject site.

The proposed development is not mapped on the Biodiversity Values Map and Threshold Tool and the development does not trigger the threshold for the Biodiversity Conservation Act 2016.



## Biodiversity Values Map and Threshold Tool



c) Social Impact in the Locality

The proposed development will have a minor social impact in the locality. The existing lot 1 DP 1252779 will retain its existing use given the site retains a dwelling right. The remainder of the land will not be cropped in the traditional method, but may still allow for some low impact pasture and grazing.

The upgrade of the Bob Irvin Road/Irrigation Way intersection to the access point of the solar farm will reduce dust and improve safety in the locality.

The social impact of the development is discussed further under section 4.15 (1) (d) any submissions made in accordance with the Act or the Regulation.

d) Economic Impact in the Locality

Economically the proposed development will provide potential jobs for up to 50 persons during the construction phase and then 2-3 workers for regular maintenance of the site during the ongoing use of the site.

Whilst the initial flux of employment and then ongoing employment at the site could be seen as providing a positive economic outcome, consideration should be given to the long terms loss of agriculture land and the effect on the local community. The (irrigated) agricultural land is a finite resource itself. The proposed development will potentially result in the loss of farm produce, and the purchase of seed, fertiliser and herbicides from local producer stores.

In this case, the use of the land for grazing of native pasture may somewhat offset these losses, however this is proposed as a trial with long term success related to practicality and profitability.

e) Cumulative Effects

The likely impacts on the built and natural environments, and the social and economic impacts of the development in the locality, cannot be looked at in isolation and in this regard the cumulative effects have also been considered.

Whilst the proposed solar farm development comprises approximately 41ha, Council along with other Councils in the Riverina and Murray Joint Organisation (RAMJO) is concerned about the cumulative impact of future solar farm developments in relation to the use of 'Important Agricultural Lands' as defined by the Department of Primary Industries.

An extract from the most recent meeting of RAMJO on 8 May 2019 is provided:

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**AGENDA ITEM 16 – GENERAL BUSINESS**

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**SOLAR FARMS**

The RAMJO Board engaged in significant discussion regarding the proliferation of solar farms in the RAMJO area and the potential long term impacts to the community.

**RESOLVED** that James Bolton arrange an urgent meeting between RAMJO and the NSW Department of Planning to:

- Urge the State Government to cease approval for large scale solar farms on prime developed irrigated land until such time as independent assessments have been completed by State Government on long term economic implications of such developments on the RAMJO region.
- Request further understanding of the NSW Government's criteria relating to identified areas allocated for solar farms, noting that many are being approved in Prime Agricultural Land.
- Understand considerations relating to the cumulative effect of multiple large scale solar farms in areas where food for domestic consumption is traditionally grown.
- Request more rigorous arrangements relating to Voluntary Payment Agreements to Councils or other community payment options to counteract the impact of such solar farms in RAMJO communities.
- Understand the long term waste implications of large scale solar farms.

In parallel with RAMJO, Council officers are of the view that future solar farm developments should not be approved on Important Agriculture Land, which lead to the adoption of a Council policy reflecting this position. In the meantime, Council is monitoring the DPI website for changes to the adopted mapping, and any changes to guidelines.

The NSW Primary Industries policy, 'Maintaining Land for Agricultural Industries' (2011), scope relates to the development of environmental planning instruments, and so is not directly relevant to the assessment of development applications. Council is mindful of the purpose of this policy however, which states:

*'To guide the planning system in providing certainty and security for agricultural enterprises over the long term and to enable those enterprises to respond to future market, policy, technology and environmental changes. Key elements are;*

- *land with the best combination of soil, climate, topography and water for agricultural production is a limited resource in New South Wales and should be maintained for future generations;*
- *agricultural land should not be alienated directly through lands being used for non-agricultural purposes and indirectly by incompatible developments on adjacent land restricting routine agricultural practices; and*
- *agricultural industries are a fundamental asset to the state of NSW as they provide a long term means of providing employment, raw materials and fresh safe secure food while supporting regional communities.'*

Further, the policy considers the conversion of Agricultural land for other purposes:

*'It is recognised that changing community needs and aspirations may require a change in the use of agricultural land. Once land is converted to other uses, especially to residential or industrial uses, it is most unlikely to return to agricultural production. Since these*

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*decisions cannot be practically reversed. The long term social and economic costs and benefits (including intergenerational equity), need to be evaluated before a decision is made (i.e. triple bottom line or people, planet, profit assessment).*

*The objective is not to prevent or discourage other land uses, but rather through planning ensure that land resources are efficiently allocated so as to maximise total benefit to the community. To achieve this goal, planning authorities should develop planning strategies for rural and agricultural industries when they develop strategies for other land uses. The determination of the economic, environmental and social contributions from agricultural land uses can be undertaken preferably through an agricultural industry study or regional rural land use study with emphasis on the major agricultural industries.'*

In this regard the proposed development is located close to two previously approved State Significant electricity generating developments, one of which has been constructed. The site is in close proximity to an electricity substation, providing appropriate infrastructure in the locality.

#### **SECTION 4.15(1)(c) the suitability of the site.**

Permissibility of the development at the subject site is by virtue of State Environmental Planning Policy (Infrastructure) 2007 Division 4 which allows for Electricity generating works or solar energy systems, rather than by the zoning under the Griffith Local Environmental Plan 2014 which prohibits this development.

As previously mentioned in this report, Council is aware that the NSW Department of Primary Industries will be releasing mapping in relation to 'Important Agricultural Lands' in the future for the Riverina. Council officers (and other RAMJO Councils in the region) are of the view that future solar farm developments should not be approved on Important Agriculture Land, which lead to the adoption of a Council (or state level) policy reflecting this position.

This loss of agricultural production on the land has been discussed with the applicant. In response the applicant has committed to trailing grazing of stock on native saltbush and grasses under the proposed solar panels. The trial would continue, should this prove to be practical and economically feasible.

In relation to infrastructure available to the subject site and proximity to the electricity substation, the subject site would be considered suitable for the proposed development.

#### **SECTION 4.15 (1) (d) any submissions made in accordance with the Act or the Regulation**

The provisions of the Environmental Planning and Assessment Act 1979 the Environmental Planning and Assessment Regulation 2000 and Development Control Plan 25 – Notification of Development Applications - set down consultation, concurrence and advertising requirements for specific types of development applications and taking into consideration any submissions received in response to the notification process.

In addition to the statutory referral process identified in Part F of this report, the notification of the development included the following:

<b>Notification Description</b>	<b>Required</b>	<b>Submission Period</b>
Publication in Area News	Yes – Integrated	11 January 2019 – 8 February 2019
Letters to Neighbours	Yes	11 January 2019 – 8 February 2019
Self-Obtaining Notification	No	



External Referrals	Date Sent	Date Received
APA Protection (natural gas)	3 January 2019	21 January 2019
Transgrid electricity	3 January 2019	24 January 2019
Roads and Maritime Services	3 January 2019	5 February 2019
Department of Primary Industries	21 January 2019	24 January 2019
Murrumbidgee Irrigation	21 January 2019	Verbal Response – No issues
CASA	21 January 2019	Verbal Response – No issues

As a result of the public participation process, Council received two (2) submissions in response to the public notification and referral of the development application. Four (4) further written responses were received from NSW government and infrastructure agencies. The details of the submissions, which Council has taken into consideration in accordance with section 4.15(1)(d) are as follows:

Submission content	Applicant Response	Assessment of Issue
<p>Noel Hicks</p> <p>1. In my opinion this proposed development is too close to the urban section of the city of Griffith. Whilst it is 6.5 km from the city centre it would be less than 2km from the edge of existing worthwhile development. In the future this would inhibit any further reasonable development in that direction. Quoting from The Aims of Griffith DCP No. 1 "To position development in the most suitable locations to achieve site integration, efficiency in the operating of the development, physical comfort and sustainable natural resource management".</p> <p>2. While I note that plantings of native flora are to be placed around the sites' boundary fence, it will still look like an internment camp. Being located on a main arterial road (Irrigation Way) into the city strengthens the view of many, that the approaches to Griffith are less than attractive for a</p>	<p>The site is some 3 kilometres from the edge of the Griffith urban area. It is zoned rural and all intervening land between the site and the urban area is also zoned rural. There are large amounts of vacant urban zoned land, for example, south of the town centre that is zoned R1 General Residential, which will cater to growth in the foreseeable future. There are also large compartments of land zoned R5 Large Lot Residential and RU4 Primary Production Small Lots surrounding the town which would cater for future urban expansion in preference to rural zoned land. It is considered that the aims of Griffith DCP are satisfied. The site that has been selected for the solar farm is suitable in terms of integrating with existing electricity infrastructure and makes best use of natural resources which includes sunlight</p> <p>The electrical substation and the existing solar farm, both on the opposite side of Irrigation Way, are within security fencing. This is necessary to prevent unauthorised intrusion into the facility and potential vandalism or theft of components. The fence along Irrigation Way is to be placed between a line of shrubs and</p>	<p>The subject site is located 3km from the Yoogali intersection of Irrigation Way/Kurrajong Avenue, with all land east of the intersection, zoned RU1 Primary Production.</p> <p>Council's future intended use of this area of the LGA is to continue as primary production land and electricity generating works are prohibited by the Griffith Local Environmental Plan 2014.</p> <p>The use of the land for electricity generating works is permitted by State Environmental Planning Policy (Infrastructure) 2007 in this zone.</p> <p>The proposed development will be fenced, with the solar panels setback 32m from the property boundary and a landscaped buffer of Weeping Myall Woodland species between, to allow for increase habitat in addition to screening of the site over time.</p> <p>It is likely that the fence and</p>

Submission content	Applicant Response	Assessment of Issue
reputed garden city.	the first array of PV panels so that is it screened from passing traffic by the vegetation. It will be setback 32 metres from the boundary to Irrigation Way	solar panels will remain somewhat visible for the lifetime of the development.
<p>3. The development is to take place on land that has access to irrigation channels. The question I ask, perhaps in ignorance is, will the developers or lessees, as with all irrigation farmers be liable for annual payments to Murrumbidgee Irrigation or the appropriate authority for their share of the total upkeep of the M.I.A. system, particularly as the land will be made barren to production for at least twenty years. If anything there should be a penalty paid for the loss of potentially productive land</p>	<p>Yes, the landholder and proponent remain liable for the cost of access to the MIA system. All costs associated with the disconnection and reconnection of the current connection points will be borne by the landholder and the proponent.</p>	<p>The landholder will remain a customer of Murrumbidgee Irrigation as they intend to retain one water access to the site (reduced from two current water access points).</p> <p>The applicant is proposing to trial growing of native pasture under the panels for grazing by stock. This may require some low volumes of water during establishment and for stock watering.</p>
<p>4. It is obvious that the developer has chosen this site to obtain ready access to existing electrical substructure. Is the developer obliged to make a contribution to the present owners of that structure for the use of that equipment that was initially paid for by the taxpayer?</p>	<p>All costs associated with connecting to the power network are borne by the proponent / developer. This includes the costs of impact studies and network augmentation. These assets are gifted to Essential Energy, the area network operator who own the lower voltage poles and wires. Solar inverters and transformers will be owned and operated by the proponent. The large substation on the other side of Irrigation Way is privately operated and the proposed solar farm does not interact with or contribute to that asset base.</p>	<p>Council is not aware nor involved in the costs sharing arrangements associated with connecting to the existing electricity infrastructure.</p>
<p>Would the developer have to construct their own substructure if the one presently proposed to be used was not available?</p>	<p>Currently, the main substation converts electricity from the transmission lines to the distribution lines. The proponent's proposed medium-scale development will provide power to the town of Griffith and connects directly to the distribution network. It will offset power flow through the substation. The proponent</p>	<p>No comment</p>

Submission content	Applicant Response	Assessment of Issue
<p>5. It is noticed that the life of The Farm could be anything from 20 to 30 years and I assume that the land on which it is to be located is leased. I also note that when The Farm reaches the end of its working life or it becomes obsolete the developers have given an undertaking in the contract that they will remove the infrastructure at their cost. Given that over a 30 year period, leases can change hands and even the largest companies can be bought, sold, or liquidated etc., what guarantee is there, particularly with a foreign company that rate payers will not be left with a bill for the clean up, possibly after a costly legal battle over who is ultimately responsible. I presume a substantial package of money will be left in Council coffers to cover this very real possibility.</p> <p>6. As with most of these types of projects, back packers and fly in fly out personnel will provide the temporary workforce required. Given the shortage of suitable accommodation in Griffith, what accommodation will be provided by I.T. in reasonably close proximity to the work to take pressure of the housing system during the short duration of The Farms' construction?</p> <p>7. Will the very small operational and maintenance crew provided by I.T. when The Farm is completed be resident</p>	<p>does not require the use of the substation directly, although without it, Griffith and the proposed solar farm could not connect to the National Grid.</p> <p>Indeed, the proponent has given an undertaking in the contract to remove the infrastructure at the end of the life of the solar farm. The responsibility to make good remains with the proponent. The landholder also has an ongoing interest in this project and to ensure the site is returned to productive use at the end of life of the solar farm.</p> <p>Attached is a summary of tourist accommodation in Griffith LGA for the year ended June 2016, the most recent available. It shows that there were 342 rooms available across 10 establishments with an occupancy rate of only 61.4%. In addition there are short-term rentals, AirBnBs and accommodation with friends and families. These statistics demonstrate that there is ample accommodation to meet the proposed construction personnel.</p> <p>The details of maintenance and operational staff have yet to be finalised, however there is clear cost savings to have these</p>	<p>A condition of consent will be imposed on the proposed development application for the remediation of land at the end of the life of the development.</p> <p>The use of the land will continue to be subject to any issued development consent and the landowner / person who benefits from the consent bears the responsibility of compliance with the conditions. The consent goes with the land not the person who makes the application.</p> <p>Council does not consider accommodation for short term workers in the assessment of a development application.</p> <p>Council cannot condition the use of local staff at any commercial, industrial or other facility once constructed.</p>

Submission content	Applicant Response	Assessment of Issue
in Griffith?	services provided by a local resident. We envisage that all land and weed management will be provided by a local resident.	
<p>Ray and Patti Gullifer</p> <p>1. Sealing of Bob Irvin Road inform of submitters premises at Lot 2200 DP 723168 83 Bob Irvin Road.</p> <p>The situation at present is a health hazard and is not up to standard for such a large project to commence. We are only asking for 300 metres of tar in front of each residence.</p>	<p>We appreciate the concerns of dust generation during construction from additional vehicles entering the solar farm. Our traffic study showed that the best entry point was from Irrigation Way, with a new entry to be constructed 150m down Bob Irvin Rd from that intersection. We envisage all traffic related to the solar farm construction to be traveling through this intersection and not past the residents' dwelling at 91 Bob Irvin Road. The entry to the solar farm will be 660m from the entrance to this residence. Given that the construction of the solar farm will not generate additional traffic past the residence and the large distance between the residence and the entry to solar farm, we do not believe the construction of the solar farm will contribute to any additional dust at 91 Bob Irvin Road.</p>	<p>Dust generated by passing traffic on Bob Irvin Road is not expected to be increased in a southerly direction as a result of this development.</p> <p>Councils engineers have conditioned an improved road standard from the Irrigation Way intersection to the firth 50m of the Bob Irvin Road, which will reduce the incidence of dust for traffic entering the subject site.</p>

The Submissions received from four (4) external state and infrastructure agencies are attached to the report, comments are provided below. Please note, only extracts are provided from agency referrals where the information is of interest to the application or a comment is deemed necessary.

Referral Agency and Issue Raised	Assessment of Issue
<p><b>Transgrid electricity</b></p> <ul style="list-style-type: none"> <li>TransGrid is actively working and supporting the proponent to complete the connection of the 15MW Solar Farm.</li> <li>TransGrid has recently executed a project and connection agreement to facilitate the connection and will continue to work with the proponent through the design and construction phases.</li> </ul>	<p>The applicant is working with Transgrid in relation to the connection and operation of the proposed solar farm.</p>
<p><b>APA Protection (natural gas)</b></p> <p>On the basis of the information provided, APA does not object to the proposed development</p>	<p>APA have suggested 13 conditions of consent which have been included in the draft consent for imposed on the development application to</p>

Referral Agency and Issue Raised	Assessment of Issue
<p>subject to a number of conditions being imposed with any approval issued for the proposal.</p> <p>Thirteen (13) Conditions and reasoning are provided in the referral attached to this report.</p>	<p>protect the natural gas pipeline.</p>
<p><b>Roads and Maritime Services (RMS)</b></p> <p>This referral is included as an attachment to Council's Engineering report, with main themes as follows:</p> <ul style="list-style-type: none"> <li>• Majority of traffic generation will occur during ten week construction and decommissioning phase with limited traffic during maintenance.</li> <li>• Existing intersection with Irrigation Way is not adequate for heavy vehicles, hence intersection works will be required in addition to a traffic management plan</li> <li>• Bob Irvin Road to be sealed for at least 50 from the intersection to reduce dust generation near the Irrigation Way</li> <li>• Shielding of views from Irrigation Way required whilst vegetation buffer is establishing</li> <li>• Eight suggested conditions of consent to reflect RMS review</li> </ul>	<p>Council's Engineers have considered the RMS referral in detail with their assessment report and incorporated recommendations into conditions of consent.</p>
<p><b>Department of Primary Industries (DPI)</b></p> <p>Specific issues that should be considered include:</p> <ul style="list-style-type: none"> <li>• accounting for the use of good quality land (Class 1, 2, and 3 Land and Soil Capability);</li> <li>• visual and scenic amenity of neighbour dwellings</li> <li>• the high level of landforming likely to be undertaken at the site before the panels are installed;</li> <li>• and site decommissioning to include removal of all underground infrastructure.</li> </ul>	<p>Matters raised by DPI are fundamental to the use of the subject site for the proposed solar farm. That is, the use of Important Agriculture Land for the purpose of a non-agricultural use. This consideration particularly applies in the Griffith LGA where land suitable for irrigated food production is a finite and valuable resource.</p> <p>The Griffith Local Environmental Plan 2014 subsequently prohibits Electricity Generating Works on RU1 Primary Production zoned land, however State policy, SEPP (Infrastructure) 2007 provides permissibility on rural zoned land.</p> <p>The Objectives of the RU1 Primary Production zone are considered elsewhere in this report, however focus on the protection of primary industry production and the support of agriculture production in this zone.</p> <p>The DPI have provided guidelines to Council for the assessment of electricity generating works as state significant development, however the subject application does not meet the trigger points of State Significant Development and has not been lodged under this assessment process.</p> <p>The subject Development Application was submitted to Council in December 2018 prior to draft mapping of important agriculture land being on exhibition on the DPI website (approx.</p>



Referral Agency and Issue Raised	Assessment of Issue
	<p>February 2019). The draft mapping is no longer available, however it is expected that this mapping will be adopted in the future as a useful tool to assess similar development applications against.</p> <p>Council agrees that solar farm development in our Important Agricultural Land is not conducive to continued agricultural production and may impact on local agriculture economies in the mid to longer term. It is yet to be determined whether solar farm developments can be decommissioned to a point which is again suitable for agriculture production, given the potential for contamination of soils by glass, wire, or other infrastructure.</p> <p>Council sees this application potentially at the tipping point, and with the adoption of this mapping (and related Department of Planning Guidelines) may provide a stronger case for refusal of similar solar farm development applications on mapped land in the future.</p>

#### SECTION 4.15 (1) (e) the public interest

The provisions of section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 provides an overarching requirement to take into account the public interest. It is considered that the public interest is best served by the consistent application of the requirements of the relevant Commonwealth and State government legislation, environmental planning instruments, development control plan, Council policy, and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided.

On the basis that the proposed development is considered to be consistent with the aims and objectives of Griffith Land Use Strategy: Beyond 2030; Griffith Local Environmental Plan 2014 and other relevant environmental planning instruments, development control plans or policies; and Land and Environment Court Planning Principles, it is therefore unlikely to raise any issues that are contrary to the public interest.

## PART H: MONETARY CONTRIBUTIONS

### Section 7.12 Contributions (Environmental Planning & Assessment Act 1979)

Section 7.12 of the Environmental Planning and Assessment Act 1979 states that if a consent authority is satisfied that development is likely to require the provision of or increase the demand for public amenities and public services within the area, it may grant the development consent subject to a condition requiring the payment of a monetary contribution in accordance with an approved contributions plan. The proposed development involves (describe the development in terms of the requirement of the s7.12 triggers) and is within the Griffith precinct. On this basis the follow contribution plans adopted by Griffith City Council apply:

The calculations associated with the section 7.12 contributions payable are attached below. Please note no exemptions listed in Appendix B of the Contributions Plan apply to the proposed development.

SECTION 94A Contributions	
<b>1 Development Application Details</b>	
DA No. 291/2018 Address: 15 Bob Irvin Rd	
What is the Estimated Cost of the Development ?	Proposed \$28,997,355
<b>2 Average Contribution Rates</b>	
Do not alter blue section	
Value of Works	Rate:
Less than or equal to \$100,000	0.00%
Greater than \$100,000 but less than \$300,000	1.00%
Greater than \$300,000	1.00%
<b>3 Total S94A Contribution \$ 289,973.55</b>	

### Section 64 Contributions (Local Government Act, 1993)

The effect of section 64 of the Local Government Act 1993 is to give the functions of the Water Management Act 2000 to Council in the same way it applies to a water supply authority. Section 306(2) of the Water Management Act 2000 enables a water supply authority to require the applicant to do either or both of the following:

- to pay a specified amount to the water supply authority by way of contribution towards the cost of such water management works as are specified in the notice, being existing works or projected works, or both,*
- to construct water management works to serve the development.*

Not applicable to the development

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## PART I: INTERNAL REFERRALS

As part of the assessment process, the following internal referrals were also undertaken.

DISCIPLINE	ADVICE, COMMENTS & CONDITIONS	DATE
Building	See attached BCA assessment	30 July 2019
Engineering	See attached Engineering assessment	13 February 2019
Environment/Health	No comments – Conflict of interest noted.	
Heritage	No comments	
Urban Design	No comments	
Street/Rural No	No comments	

The comments received in response to the internal referral place have been addressed in the assessment of the application and where applicable incorporated into the recommendation.

## PART J: CONCLUSION AND RECOMMENDATION

### Conclusion

The development application has been analysed and evaluated with regard to the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The assessment has identified that:

The proposed development is permitted under:

- State Environmental Planning Policy (Infrastructure) 2007 Division 4 Electricity generating works or solar energy systems and is consistent with the aims of that environmental planning instrument.
- The proposed development is consistent with the provisions of relevant SEPP's that apply.
- The proposed development is considered satisfactory with regard to the objectives and controls set down in the relevant development control plans.
- The proposed development is unlikely to have any unreasonable impact on the environment, and where an adverse impact has been identified appropriate conditions have been imposed to mitigate the effects.
- The subject site is suitable for the proposed development
- Where submissions were received they have been taken into consideration and where appropriate have been addressed by way of amended plans or conditions of consent.

On this basis it is considered that the proposal has merit and can be supported.

### Recommendation

The application has been assessed in accordance with the requirement of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000. The evaluation demonstrates that the proposal is satisfactory in terms of the matters for consideration identified in the legislation. It is recommended that the proposal be granted conditional development consent.

### ASSESSING OFFICER

**Name:** Mrs J V Tarbit  
**Position:** Development Assessment Planner  
**Signature:**

**Date**  
31 July 2019